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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/034,208 | 12/28/2001 | Timothy A. Limon | ACS 59115 | 7764 |

24201 7590 07/13/2006

FULWIDER PATTON
6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES, CA 90045

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| EXAMINER |
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HO, UYEN T

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| ART UNIT | PAPER NUMBER |
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3731

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/034,208 | Applicant(s) LIMON, TIMOTHY A. | |
| | Examiner Tan-Uyen T. Ho | Art Unit 3731 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,20,22-48 and 58-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19,20,22-48 and 58-91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/25/06 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 58-69, 74-76, 80-83, 88 are rejected under 35 U.S.C. 102(b) as being anticipated by Limon (6,273,910). Limon discloses a stent with varying strut geometry and a method for delivering the stent to a vulnerable plaque, the stent (fig. 5) comprising: a distal section (14), proximal section (16), wherein the metallic surface areas in the distal or proximal section is greater than the metallic surface area of the central (fig. 4), wherein the central section having fewer struts and curves or less dense than the proximal or distal sections (fig. 4), wherein the length of the central section is greater than the length of the distal or proximal sections and the length of each of the struts in the central section is greater than the length of the struts of the distal or proximal sections. Wherein the central section having a plurality of struts being connected together forming a single ring (12). The stent is made from stainless steel and coated with biocompatible material. Note: with the broadest reasonable interpretation, "a single ring" encompasses a plurality of small rings or ring segments connected together forming a single ring.

Regarding to claim 63, the distal section (14) has different strut pattern than the proximal section (16) and the distal section has at least a section that has the same strut pattern with at least a section of proximal section.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19, 20, 22-48, 70-73, 77-80, 84-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Limon (6,273,910). Limon disclose a stent for maintain the patency of a body lumen. Although, Limon does not disclose the step of aligning the stent or the central section of the stent with an area of vulnerable plaque as well as the stent having cover/graft and drug as claimed, it is well known in the art to cover a stent with a graft and/or coated with drug as claimed for maintain the patency of a body lumen having a vulnerable plaque and positioning the stent aligned with the vulnerable plaque such that the stent-graft would cover plaque and the vulnerable plaque portion being treated with drug while the stent-graft support to maintain the patency of the body lumen. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ Limon's stent with cover/graft and drug as well as to position the Limon's stent with cover/graft along a treated vulnerable plaque region in order to enhance the treatment and support the body lumen having vulnerable plaque.

Regarding to claims with undulating links, it is well known in the art to have the stent with undulating links between cylindrical rings of a stent in order to provide the stent with more flexibility. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute Limon's links with undulating links in order to have a stent with more flexibility.

Regarding to the materials of the stent as claimed, the materials as claimed are well known for making stent. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the material of Limon's stent with the materials as claimed. Doing so would amount to mere substitution of one material for another within the same art that would perform equally well with Limon's stent.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan-Uyen T. Ho whose telephone number is 571-272-4696. The examiner can normally be reached on Multiflex Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh-Tuan Nguyen can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tan-Uyen T Ho
Primary Examiner
Art Unit 3731

July 8, 2006